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ABSTRACT

This paper investigates the role of data collection and analysis in the process of legislative evaluation of academic programs, a process which is influenced not only by the expectations and perceptions of both legislators and educators, but, most recently, by consumerism. Before educators can grapple effectively with their concerns over legislative misuse of data in academic evaluation, they must resolve two questions: What is education? and Is education a business? It is recommended that education develop evaluative criteria at the local level and have student-consumers. Legislators must be educated in the proper use of data so that researchers' collection and analysis of data will be an influence on, and not a reaction to, legislation. (Author/JAB)

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# Influencing State Legislation Through the Collection and Analysis Of Data

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## Influencing State Legislation Through the Collection and Analysis of Data

On October 4, 1957, a clear high-pitched "beep, beep, beep," sent the United States educational community into a frenzy of activity and productivity. The "Space Race" was on and Sputnik I was circling the earth with unerring accuracy every 95 minutes to remind us we were behind. It was the beginning of the best of times. Legislatures, foundations, private citizens, everyone was prepared to give their all to glean from the pool of available students the best and brightest to overcome the gap. We worked - we built - we gave - until on July 20, 1969, Neil Armstrong stepped onto the Sea of Tranquility and we won the race to the moon. U.S. higher education had produced the brainpower and the technical know-how to make the dream a reality. That was 20 years ago. Now in 1978, some of those same men and women who put Armstrong on the moon are unemployed or in non-related job fields. Those institutions which used to cull through applications to take only the best stare at empty dorms, falling enrollments, and wonder when will it end. The legislatures and funding sources who used to ask how they could help are appalled at the cost to produce one Ph.D. and formerly deep fiscal supplies are being watched with bookkeeping accuracy. The best of times has become, for some, the worst of times.

These events and others are taking place outside the educational arena. The impact they have on education, however, is tremendous. They are examples of how outside events influence or shape legislation - state, federal, and local. Institutional researchers

have been assigned the task to collect and analyze and report the data which documents how effectively institutions respond to these stimulae. We measure enrollment, calculate grade point average analysis, conduct cost per FTE and cost per credit hour studies, run IEP programs, you name it! All this activity to confirm or deny that policy set by those outside the institution or outside the Office of Institutional Research can and does impact the direction of the institution, particularly in the area of governmental policy. The hope of this paper is to look at the purposes and uses of data collection in the legislative process and see how institutions and institutional representatives can influence legislation rather than merely report on legislative impact. This does not mean that the reporting function is not necessary but suggests that there is another role of institutional data collection and analysis which may have been overlooked.

Before we can investigate further the new ways to influence legislation, we must grapple with current perceptions and expectations of what data can and should do for us. Many expectations are predictable but we must be mindful of how they interface among the various publics represented and determine if there are new factors which may alter our current perspectives. We must deal with this not as institutional researchers only, but as educators. Once the generalized requirements are clear, the specific role of the researcher will be easier to determine.

DATA EXPECTATIONS:

The first question is - What do we as educators expect data to do for us? We expect it to record and document our achievements.

We expect it to confirm that we are doing good work worthy of continued and increasing compensation. We expect it to justify our sincere pleas for legislative fiscal support. We want it to tell our story to the world the way we remember it. The facilities we know we require, the funds required for our projects and programs, the enrollments needed to allow our institutions to prosper; these are the needs data must verify and justify. We deserve bigger paychecks, better facilities, and brighter students. We expect data to convince legislatures to enrich our self-determination but not create academic interferences or accountabilities we are unwilling to accept. All these things and more constitute some of our expectations. We expect its analysis to explain away our failures and protect us against our shortfalls. Foolish, you say, that is not what I expect! Perhaps, but they are expectations many hope for even though they do not ring with the greatest amount of practicality or reasonableness.

What do legislators expect of data? They expect it to give them direction. They want to have it tell them what to fund and what not to fund. They expect it to comment on what programs are good and get rid of the bad. They wish it would project a uniform cost for quality education at all levels. Unrealistic you say! Educators know that and so should legislators. Yet it should be suggested that legislative expectations are no more unrealistic than those of the institutions.

It would appear that educators are willing to argue with legislators about the use of data but have or will not educate them in <u>how</u> to use the data. This is a delicate but, nevertheless, real

failing of the educational community. We have failed to make known our own expectations in realistic terms. And now we find our former ally of the 60's is using the data we gave them in our defense to put education on the defense.

In the midst of our current confusion, the worth of education has become a new powerful concern of legislation and a major issue confronting the future of education. The September, 1975, issue of Change had as its lead article, "The Declining Value of College Going." Concern over these matters has been the result of a new force effecting the expectations of educators and legislators alike. This new factor is "consumerism." Student consumerism and parental consumerism are generating different dimensions to education. General Counsel for the University of Wisconsin-Madison, Michael A. Liethen, offers two reasons for consumerism reaching the campus. First, it has come because it has come to the rest of the economy. The second reason he clarified by stating, "... Employers once competed to hire college graduates, and few had difficulty finding suitable employment. The economy has changed that, and students concerned about their employment potential after college can be expected to scrutinize more closely the quality of the education which they expect will give them the advantage in the competition for jobs. When an institution's performance does not meet the expectations of these newly critical education consumers the courts will be one direction in which they will turn for redress."[1] Law suits for failure to perform, students carrying basic grants to the schools and not the school offering them to the student, the emergence of the "Is College Worth It" books, talks, etc., and many other phenomena

substantiate the impact consumerism is having on education. More importantly, consumerism has expanded the arenas of legislative involvement with schools. Primary among these new data requirements are requests from state and national Departments of Labor. The emergence of this aspect of governmental intervention will cause us all to review and assess the data we provide. It will also generate new demands.

IMPACT OF DATA EXPECTATIONS:

The newest reporting requirements stimulated by consumerism are best exemplified in the statistics required by the Department of Labor's Equal Employment Opportunity Commission (EEOC) and the rash of expanded fiscal reports asked for by legislative audit committees at the state level. Without making any pronouncements on their "philosophy of education," the Labor Department has begun impacting education through ill defined employment and enrollment requirements. Government has created demands and then used them to gain access to the policy-making processes of the institution. "The decision to channel funds through consumers by student grants, and particularly loans, rather than through institutional aid, has helped to create "consumers" in an economic sense. The numbers of eligible students and institutions were increased. Many unaccredited institutions have been allowed by OE to participate in the loan program, and some of these institutions, and possibly a few marginally accredited institutions, have misused the loan systems... The institutions have been blamed for some of these financial problems. In addition, however, students have claimed that some

institutions misled them or did not produce the educational programs which were advertised....As a result of these developments, the Federal Trade Commission has proposed new rules for the conduct of proprietary institutions, some of which would be more exacting than standards of public and non-profit private institutions."[2]

Encroachment into institutional policy making by state government has come through two major sources - 1) audits and 2) proficiency testing. Legislators are seeking to find ways to appraise the worth of what is being offered to student learners.

The legislator as a public servant is called upon to be accountable for the use of public funds. Robert D. Berdahl, in the winter issue of New Directions for Institutional Research[3] presents two excellent case studies on how legislatures have handled this question of overseeing the educational product in two states - Wisconsin and Virginia. Both states utilized legislative audit staffs to get at a determination of the calibre of programming used by state institutions. The studies indicate that the legislative committees brought an "accountant's view" to educational evaluation. Legislative review of management effectiveness would raise fewer problems than evaluation of academic effectiveness.[4] Yet the problem is that greater and greater numbers of legislators are using audit committees to evaluate academic effectiveness.

A more educationally traditional but still undefined measure which states are utilizing is proficiency testing. "By proficiency testing we refer to measurement of what a person can do as a result of learning....The landmark examination system introduced at the

University of Chicago by Robert Hutchins was a system of proficiency tests. But the requirement in this country that all advanced sophomores in all the publicly-supported colleges in an entire large state take the same examination and meet the same standard or else not be allowed to graduate is something new in the decade of the 1970's..."[5]

One outcome of these new perspectives is to create a new set of laws applicable to "educational consumerism." Indicative of this, the NAACP of Miami, Florida,is considering suit against state and local educators for instituting a survival skills course for graduation from high school. "The NAACP's suit would be a class action on the theory that student's due process rights had been violated because they had received notice of the requirement of passing the test late in their high school careers. The suit would also charge that Title VI of the Civil Rights Act of 1964 has been violated because the test constituted discrimination by race in a federally assisted program."[6]

Educators can quickly point out the risks of measuring academic quality by these means alone. Legislators are commiting the cardinal error of making qualitative decisions based on quantitative data. Such determinations lead to well meaning but illogical and potentially harmful legislation, i.e., Florida's passage of a law that a faculty member must spend at least 12 hours in the classroom each week. This is the legislature's way of making sure that faculty members are not freeloading off of society.[7] It would appear that in the absence of other analysis or opinions the legislature has exercised its option to be accountable for public funds by becoming involved with academic

as well as managerial evaluations of higher education. In so doing, they have taken a myopic view of instruction. There appears to be little attention to programs and quality, but major concern for legalistic quotas and fiscal controls.

PROBLEM IDENTIFICATION:

It would be nice to think that the legislatures had become this confused on their own, but very naive. Before we can begin to suggest means of correcting governmental expectations, educators must resolve at least two thorny issues in its perceptual armor.

What is education? Tomes of data and hours of analysis are put into amassing information about something for which there does not appear to exist a commonly agreed to definition. Medicine, accounting, the law, all have a generally accepted definition and stated parameters of investigation. However, education has as many definitions as there are people to define it. Without attempting to do too great an injustice to all the volumnes on the topic, it should be suggested that the definition of education is found best at the level of the individual institution and within the particular community it serves. This would apply to higher education institutions as well. Education is the collective perceptions of a given population. The dictionary says to educate is, "to provide schooling for 2: to develop mentally or morally especially by instruction."[8] That definition is sufficiently broad to encompass any perception of the word. But that in itself creates the problem.

Educators and non-educators act as if there is a common definition. Therefore, when we deal with individuals outside of

our local understanding of the term, we are dealing first with a semantic issue which must be clarified before meaningful dialog can occur. Legislators bring to their action their understanding and educators bring theirs. We immediately begin to reaffirm our separate understandings when we do not explain our terms. Legislators are human, although some give you pause, and as such educators must address their expectations to them in concrete, unambiguous terms.

The second problem area is education's perception of what it produces. Higher education has for years said our product was not measurable, hence it was not a business. Consequently, we implied that we produced affective change and values clarification. Yet the aesthetics of life and life-styles, through whatever measures may exist, have not made any perceivable improvement in this country. The GNP rises and falls but crime has not gone away and men continue to amaze his fellowmen with his capacity to be inhumane.

Educators must understand they are a big business. Employment statistics confirm that in most communities education is the second largest (or largest) employer. Education has been uncomfortable with this image because it will change our role as participants. We will become managers and designers rather than philosophers and thinkers. We are craftsmen and as such must set our own qualitative standards of performance. If we are reluctant to accept this fact, the continual onslaught of unionization, collective bargaining, and consumerism should quickly dispel those beliefs. And as a business we have an obligation to be accountable for our product.

The laws of product liability and consumer protection are going to be applied to education. Legislators are going to uphold their legal obligation to account for funds to see that consumers are indeed receiving their money's worth. Consequently, if educators are to influence the future of education we must influence new legislation by providing data which can support or defeat consumer-based decisions being made. Without this involvement, the accountant's view utilized by the Joint Legislative Audit Review Committee (JLARC) in Virginia and the Legislative Audit Bureau (LAB) of Wisconsin[9] will establish legislative benchmarks of instructional quality.

SUGGESTIONS FOR THE FUTURE:

Educators cannot shy away from developing qualitative as well as quantitative measures of institutional performance. To accomplish this collection and analysis of data must take place in three specific areas: educational outcomes, legislative expectations, and consumer expectations.

Outcomes oriented instruction is not new. Outcomes oriented evaluation is the new frontier. Educators must initiate action in this area or risk having evaluative criteria set by non-educators. The rapid emergence of proficiency tests and fiscal audits as discriminators of instructional quality confirms this. Institutions must identify and define the facets of its impact on a learner.

It must demonstrate performance of its impact on a student-consumer in terms of previously agreed to expectations as well as cognitive skills.

Outcomes in this sense are not merely the number of degrees produced or the cost to process one individual through the institution. Educators must secure data which does not currently exist and provide a means of inputing it into the policy-making process. To do this institutions must conduct intensive needs assessment studies at the local level to reaffirm and/or establish realistic goals and objectives. Once derived, these statements must be couched in terms of consumer expectations. Critical to this process is the establishment of institutional self-study teams composed of individuals who will develop criteria in pragmatic terms with a minimum of "educational jargon." Perhaps more critical is the need to establish independent self-study teams to validate these criteria and help establish evaluative measures in terms of consumer concerns. The make-up of this latter team should be sufficiently diverse to represent the constituencies served by the institution. Membership should not be limited to but include legislators, businessmen, alumni, and students. This process would form a contract between the student-consumer and the institution on which both parties could base their progress and performance.

There are, and should be, real limitations on economic techniques for assessing the value of a college education.[10] Yet educators continue to help create quantitative guides for evaluating subjective systems and/or policies. Regardless of disclaimers, major efforts are being made in this field which could result in stronger governmental regulation.

As stated before the need to develop a guide to institutional self-study based on outcomes at the institutional level is great.

Regardless, cooperative determination of objectives is tied into any effort of this kind. Legislative reliance on consumer or participant perceptions strongly reiterate the need to clarify educational definitions at the local level and to seek to lobby against legislation or action which would treat all education alike.

In a quick survey of legislative educational leaders in the Southern Regional Educational Board states[11] responses indicate that fiscal management by legislators takes precedence over programatic concerns. Legislators have not been educated as to what kind of legitimate decision making can occur from the data they currently receive. Arguments against uniformity based on a cost basis are well known. But government representatives believe that profit and loss statements depict if any learning is taking place. The responsibility for this type of analysis rests with educators who have retreated from interaction with politicians except during budget presentations. Educators must communicate with their governing agencies. When legislators feel that educational programs are best described through detailed cost data, one cannot help but believe that the institutions have failed to educate a most important constituency.

Ours is a society obsessed with productivity. Because of education's hesitance to consider itself a business, we have fallen prey to production measures without any say in their use. Current EEOC and affirmative action regulations substantiate this.

Educators must act like business people. We are walking a consumer tightrope. If we trip, we will fall into a quagmire of governmental control. Educators seeking to provide for its users have developed a dependence upon governmental assistance. What we must fight against is governmental direction. That means no Department

of Education concept because the cost would be more than dollars. We will lose our autonomy over an issue of false pride. That means "hawking our wares" like the salespeople we should be to clarify, amplify, and define what we are doing. That means being professional and realizing we are accountable. But it also means assuming responsibility for ourselves by setting realistic criteria for product evaluation and not complaining because someone else does if we do not.

CONCLUDING THOUGHTS:

The question remains, "How can we best influence state legislation?" This paper has suggested that the role of data and data analysis is critical in this process. Past experiences indicate that education must define its expectations and comprehend the expectations of its consumers. Recent information shows that education's major funding sources are ill-informed regarding the correct use of data in the educational decision-making process. Try as we can, only we are to blame for that. To correct this oversight we must become salespeople. We must present our product realistically, but attractively. And we must be accountable for its worth. If we are unwilling to accept these criteria, then we must be equally mute when outside agencies using accountant's pencils set them for us. We must learn how to lure and entice favorable legislation through honest,quality education. We cannot afford to be drawn into the web of fiscal dependence governments weave through universal student aid programs, grants controlled

only by government, or solicitations of funds with "only a few strings attached." To accept these gifts without reservation will compromise our own self-determination as institutions until the faculty, the students, the buildings, the administration, the grounds, and the alumni are measured by their fiscal value to some audit committee making proud pronouncements that education at XYZ University improved this year because the cost per FTE dropped from $1,500 to $1,495.

In his opening remarks of the 1976-77 President's Report, Derek Bok of Harvard shared the following story:

> "Just over a hundred years ago, my grandfather left school at the age of thirteen and went to work. Forty-five years later - after an eventful career as a window-washer, office boy, editor, businessman, and author - he was asked by the Yale Daily News whether he was sorry, looking back, that "experience in the world, and not college,' had been his school. He replied: 'I confess that I cannot say which I would choose, and I say this even with the distinct losses which I recognize as following from the lack of a college education ... I cannot picture to myself, much as I should like to do so, the environment of the modern college equipping a man for the practical affairs of life ... And more's the pity. For if education has a purpose it certainly is to prepare for life.'"[12]

These concerns are real and are part and parcel of the current consumer movement. We must begin today to change our self-perception so we can make educational institutions true places of education.

Footnotes

1. Michael A. Liethen, "Students As Consumers and the Law: A Legal Overview of Student Consumerism", (paper read at the 16th Annual Meeting American Council on Education, Washington, D.C., October 13, 1977), p.2.

2. Fred F. Harcleroad, Educational Auditing and Accountability, (Washington, D.C.: The Council on Postsecondary Accreditation, 1976), p.9-10.

3. Robert O. Berdahl, "Legislation Program Evaluation," New Directions for Institutional Research, No. 16 (Winter, 1977), p.35-65.

4. Berdahl, "Legislation Program Evaluation,"p.45.

5. John R. Hills, Proficiency Testing: Implications for Higher Education, (Atlanta: Southern Regional Education Board, 1977), p. 1.

6. "Skills Test Challenged in Florida," APGA Guidepost, January, 1978, Vol.20, No. 12., p.1.

7. Hills, Proficiency Testing: Implications for Higher Education, p.16.

8. Webster's New Collegiate Dictionary, s.v. "educate".

9. Berdahl, "Legislation Program Evaluation," p.35-65.

10. Peter D. Bell, "Is A College Education Worth It?", (paper presented to 16th Annual Meeting American Council on Education, Washington, D.C., October 13, 1977), p.2.

11. Survey developed by author in letter form and circulated among education charimen of legislatures in 14 states. Approximately 30 individuals were polled and nine responses have been received as of this writing. States involved were: Alabama, Arkansas, Louisiana, Mississippi, North Carolina, South Carolina, Florida, Georgia, Tennessee, Virginia, Kentucky, West Virginia, and Texas.

12. Derek C. Bok, "The President's Report - 1976-1977," Harvard University Gazette, (Vol.LXXIII, No. 24), March 17, 1978, p.9.